

Date of Decision:06.10.1995

FOR APPROVAL AND SIGNATURE

THE HON'BLE MR. JUSTICE N N MATHUR

1. Whether Reporters of local papers may be allowed to the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to b....

Civil Judge ?

Mr P B Majmudar, Advocate for the petitioner
Mr J M Patel, Advocate for respondents No.1 & 2
Mr A G Uraizee, AGP for respondent No.3

CORAM ; N N MATHUR, j.
(October 6, 1995_

ORAL JUDGMENT

This Special Civil Application has been filed seeking direction to quash orders at Annexures 'A', 'B' and 'C'. Necessary facts for the disposal of this Application are that one Nomanbhai Abdul Hussain, husband of the present petitioner, by two registered sale-deeds dated 30.3.1978, purchased land being Survey No.468, 459, 415, 448, 446, 23/2, 23/1 and 17 in Village Pansoli, Dabhoi Taluka from the guardian of the present respondent No.1-Goranbu Ismail for a sum of Rs. 21,000/-. On the basis of the said sale deeds, the mutation entry No.978 as

was certified by the Mamlatdar on 24.8.1978. That order was taken into revision in R.T.S. Revision Case No.27/82 by the Deputy Collector, Dabhoi. The Deputy Collector held that the transfer was in violation of the provisions of the Bombay Tenancy and Agricultural Lands Act. The matter was further taken in revision before the Collector, Baroda, which was dismissed by order dated 9.12.1983, by holding that the transfer was in violation of section 63 of the Bombay Tenancy and Agricultural Act, 1948 (for short, 'the Act') and that the proceedings were required to be initiated under Section 84C of the Act. Against the said order, a further revision was filed before the Additional Special Secretary (Appeals), Revenue Department, Gujarat State. That Revision was also dismissed by order dated 10.9.1987 passed by the Deputy Secretary.

2. The matter came up before this Court on 16.7.1993 (Coram M B Shah, J.). It was stated that the petitioner and respondent No.1 have settled their dispute outside the court. It was agreed between them that the possession of the land was to be handed over back to the transferor and the transferee would refund the sale price i.e. Rs.21,000/and would also pay Rs.30,000/- more. On the basis of the said settlement between the parties, the possession of the land was handed over back to respondent No.1 on 26.11.1988. On that day, respondent No.1 also paid Rs.21,000/- by cheque i.e. the amount of consideration received at the time of execution of the sale deed. It was also stated that the pursis to the aforesaid effect was submitted before the Mamlatdar and Agricultural Lands Tribunal, Dabhoi, in Tenancy Case No.6017/84. This Court directed respondent No.1 to deposit the remaining amount of Rs.30,000/- before the Registrar of this court. It is agreed by the learned Advocates for the parties that the said amount of Rs.30,000/- has been deposited in this Court.

3. The Mamlatdar and ALT has initiated proceedings under section 84C of the Tenancy Act, in pursuance of the directions of this Court dated 16.7.1993. Keeping in view the fact that the land has been handed over back to the respondent No.1 and petitioner Amina Noormohammad has received back the amount of consideration of Rs. 21,000/-, which has been encashed by her and further that the mutation entry No.978 has been cancelled and the parties have restored the land. It is also declared that the sale deed dated 30.3.1978 between the parties is invalid, inoperative and it does not confer any title or rights and the said transaction ceased to have its effect.

4. In these circumstances, the amount of Rs.

30,000/- which has been deposited in pursuance of the order of this Court dated 30.4.1994, shall be equally disbursed amongst the following legal heirs of the original petitioner by issuing separate cheques:

1. Jabirhussain Nomanbhai Mithawal
2. Nasim banu
3. Salma banu
4. Perin banu
5. Jamila banu
6. Fatima banu

The cheques will be issued to the aforesaid legal heirs individually, on being identified by the learned Advocates of either of the parties. In case nobody turns up to receive the cheques within a period of one year, the matter shall be reported to the Court for appropriate orders.

5. In view of the above, this Special Civil Application is disposed of. Rule discharged. There shall be no order as to costs.

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